



RESIDENTIAL UTILITY CONSUMER OFFICE

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Janet Napolitano
Governor

Stephen Ahearn
Director

AZ CORP COMMISSION
DOCUMENT CONTROL

November 21, 2003

Mr. Ernest Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

E-00000A-02-0051
E-01345A-01-0822
E-00000A-01-0630
E-01933A-02-0069

Re: RUCO's reply comments to other ECAG parties

Dear Director Johnson:

The Residential Utility Consumer Office ("RUCO") files these comments in reply to the April 2003 comments of other parties regarding the review of the Retail Electric Competition Rules. RUCO will respond to issues in four broad categories.

Retail competition

A number of parties' comments suggested that the Commission consider at the outset whether retail competition should continue at all. Retail competition has demonstrated few if any benefits for customers, especially residential customers, but can present substantial risks. The Commission has already expressed its reservations about whether the wholesale electric market is stable enough to guarantee that retail rates will remain just and reasonable. RUCO supports rescission of the rules that permit retail competition. Alternatively, RUCO would also support Tucson Electric Power Company's ("TEP") proposal to limit retail competition to customers greater than 3 MW at this time.

Standard offer service

Arizonans for Electric Choice and Competition ("AECC") and TEP expressed concerns over the Rules' lack of guidance for returning customers from direct access service to standard offer service. AECC proposed that the Rules include a provision like that in the APS Settlement Agreement that customers with loads below 3 MW have no restriction on returning to Standard Offer Service, but that customers with loads greater than 3 MW must give one year's

notice before returning to Standard Offer Services. TEP suggest that the Commission consider either an adjustor clause or a requirement that returning customers commit to remaining with Standard Offer Service for at least one year. RUCO agrees that, if the Commission retains choice for retail customers, the Rules should provide guidance for this matter. RUCO would support application of the provision in the APS Settlement Agreement. Adjustor mechanisms may be a less desirable solution, as they can only be implemented in conjunction with a finding of fair value.

RUCO opposes the proposal of Constellation New Energy, Inc. ("Constellation") and Strategic Energy L.L.C. ("Strategic Energy") to require customers below a certain load to remain on Standard Offer Service while requiring all customers above that load to move to the competitive market.

Trico Electric Cooperative, Inc. ("Trico") proposed that the Rules provide for a universal service fund to insure that Standard Offer Service remains available at reasonable rates. RUCO supports Standard Offer Service being available at reasonable rates. However, if the Commission is not confident that competition will result in reasonably priced Standard Offer Service, it should not permit competition in the first place.

APS proposed that all contracts from a mandated procurement process should receive pre-approval from the Commission. In the Track B proceeding, RUCO suggested that its proposed process of evaluating bids could result in a contemporaneous finding of prudence with respect to the utility's planning, but not as to its implementation. However, the Commission did not adopt RUCO's proposed process. Therefore, RUCO opposes any pre-approval resulting from an abbreviated process to select generation resources.

Separation of monopoly & competitive services

Regardless of whether the Commission maintains a framework for retail competition, the Commission should clarify whether utilities are either obligated or precluded from constructing new generation to meet the needs of standard offer customers. The Commission should also confirm that retained or self-built resources will be eligible for cost-based recovery (subject to the usual determinations of prudence).

Consumer Protections

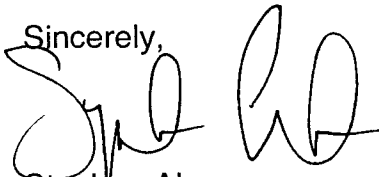
Constellation and Strategic Energy proposed permitting electronic or voice approval of switch to competitive provider, rather than the current requirement that all changes of service providers be in writing. They also propose that customer lists be provided to Electric Service Providers to increase ESPs' ability to market to customers. RUCO objects to easing the requirement that a customer's switch to an ESP be made in writing. The Commission previously considered alternatives to written authorization, and concluded that

authorization in writing was necessary to protect customers from slamming. RUCO also opposes the invasion of customers privacy by sharing customer lists with ESPs without those customers' authorization.

Misc. issues:

RUCO generally supports the comments proposing that distributed generation be facilitated by the Commission's rules. Finally, since many of the matters relating to transmission are currently pending before the Commission in its review of the Arizona Independent Scheduling Administrator, RUCO will not provide further comment on issues that are pending in that proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Ahearn', written over the word 'Sincerely,'.

Stephen Ahearn
Director

SA:jr